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Security Council

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Letter dated 10 September 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 25 April 2003 (S/2003/477).

The Counter-Terrorism Committee has received the attached third report from Monaco submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-52164 (E) 021003 031003

Annex

Note verbale dated 10 September 2003 from the Permanent Representative of Monaco to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

[Original: French]

The Permanent Mission of the Principality of Monaco to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, and has the honour to transmit herewith the second supplementary report of the Government of Monaco (see enclosure).*

* Annexes are on file with the Secretariat and are available for consultation.

Enclosure

[Original: French]

Second supplementary report submitted by the Principality of Monaco to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)

The Security Council,

...

Acting under Chapter VII of the Charter of the United Nations,

...

6. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and *calls upon* all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution.

I. Details on measures implemented pursuant to paragraph 1 (d) of Security Council resolution 1373 (2001)

The CTC would welcome receiving an outline of the relevant provisions of the Bill on Associations and Federations which will require groups certified by the Monegasque authorities to submit a comprehensive annual report on their activities and accounts to the Minister of State.

The Bill currently being finalized by the legal services of the Principality will provide additional assurances that the funds received by associations are not diverted from their stated purposes to terrorist activities.

Thus far, as described in the previous report (S/2002/1418), Act No. 885 of 29 May 1970 concerning financial oversight of private-law bodies receiving State subsidies provides for oversight by the Monegasque authorities of associations, foundations and other private-law bodies in receipt of State subsidies.

The new Act concerning associations and federations provides for administrative certification which, in addition to the declaration submitted to the Minister of State (act by which the association acquires legal personality), operates as a Government sanction for associations or federations that meet certain requirements[1] and are subjected to oversight. The certified associations would be required to report to the Minister of State on their activities by preparing an annual ethical and financial report. There will therefore be a considerably strengthened financial oversight of a larger number of associations.

[1] Such as freedom of opinion and due process; prohibition of any discrimination; observation of the relevant code of conduct; provision of the administrative facilities and technical supervision that their activities require; and compliance with the supervision, health and security requirements applicable to their members' activities. When such requirements are met, certification shall be granted through a ministerial decree issued for a period of three years.

Once the new Act is in force, it would be in the best interests of any associations to seek certification, which will entitle them to considerable public assistance (subsidies, premises and functional facilities). Recipient associations may also invoke their certification status when participating in events organized abroad that fall within their area of interest; moreover, certified bodies may also institute proceedings in court in defence of class action within their sphere of activities without having to prove direct personal injury.

It should be stressed, however, that non-certified associations (which, by reason of the prohibition against Government interference with private enterprise, will not be required to submit an ethical and financial report to the Government) may not (as they may not under the current Act) engage in activities that might give rise to problems with a foreign Government, under penalty of liquidation.

II. Details on measures taken pursuant to subparagraphs 3 (d) and (g) of resolution 1373

The supplementary report states in reply to subparagraphs 3 (d) and (g) that the Government of the Principality is finalizing a draft Sovereign Ordinance concerning:

- *Crimes linked to specific terrorist acts and the provision of more severe penalties for the commission of such crimes; and*
- *The provision by the Principality of Monaco of the broadest possible mutual legal assistance in relation to any inquiry or criminal or extradition procedure.*

The CTC would appreciate receiving an outline of the relevant provisions of the draft Sovereign Ordinance and a progress report on its enactment.

Sovereign Ordinance No. 15.655 of 7 February 2003 concerning implementation of various international treaties on counter-terrorism was published in issue No. 7,586 of 14 February 2003 of the *Journal de Monaco* (the official journal) (see Annex 1). The purpose of this legislation is to make the crimes listed in the counter-terrorism treaties referred to in the Sovereign Ordinance punishable in Monaco as terrorist acts. Indeed, such treaties had hitherto been enforceable in Monaco although no specific implementation legislation, including in criminal matters,[2] had been enacted.

- These penal provisions are covered by article 1 of the Ordinance: its first paragraph specifies the penalties for the violations set forth in paragraphs 1 to 8 and following (10 to 20 years' imprisonment (unless more severe penalties are provided for by other penal provisions) and fines of 18,000 to 90,000 euros, which could be increased five fold).

– Paragraph 1 concerns violations of the Convention on the Suppression of Unlawful Acts against the Safety of Civil Aviation;

[2] With the exception of the International Convention for the Suppression of the Financing of Terrorism, which was enacted by Sovereign Ordinance No. 15.320 of 8 April 2002 concerning the suppression of terrorist financing. It should be recalled that the United Nations Convention for the Suppression of Terrorist Bombings was enacted by Sovereign Ordinance No. 15.088 of 30 October 2001.

- Paragraph 2 concerns violations of the Convention for the Suppression of Unlawful Seizure of Aircraft;
- Paragraph 3 concerns violations of the Protocol for the Suppression of Unlawful Acts of Violence at Airports serving International Civil Aviation supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
- Paragraph 4 concerns violations of the International Convention against the Taking of Hostages;
- Paragraph 5 concerns violations of the International Convention on the Physical Protection of Nuclear Material;
- Paragraph 6 concerns violations of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf;
- Paragraph 7 concerns violations of the Convention for the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;
- Paragraph 8 deals more generally with terrorist offences covered by the generic description of terrorism set forth in article 2, paragraph 1 (b) of the International Convention for the Suppression of the Financing of Terrorism.

• Article 3 concerns mutual legal assistance and extradition. These provisions are contained in all the international treaties covered by this Sovereign Ordinance and require the Contracting State, Monaco in this instance, to take the necessary measures to incorporate them into its domestic legislation. Accordingly, the first paragraph of this article stresses that the Principality undertakes to provide the broadest possible legal assistance with respect to any inquiry or criminal or extradition procedure relating to the crimes referred to in article 1.

III. Reports or questionnaires submitted to other organizations

The CTC is aware that Monaco may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be pleased to receive a copy of any such report or questionnaire as part of Monaco's response as well as details of any efforts to implement international best practice, codes and standards which are relevant to the implementation of resolution 1373.

• See Annex 2, the self-evaluation questionnaire concerning the special recommendations of the Financial Action Task Force on Money Laundering (FATF) on the financing of terrorism.

• *N.B.: On 2 August 2003 the Principality of Monaco transmitted to the Security Council Committee established pursuant to resolution 1267 (1999) the report it was required to submit under paragraph 6 of Security Council resolution 1455 (2003). The report provides many details relating to the implementation of resolution 1373 (2001).*